GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT.

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Deccan Roadways, Shimoga.

Award of the Labour Court, Hubli—Published.

Read the following papers:

(1) Letter No. 500/69-70, dated 24th June 1969, from Shri D. Ponnurangam, Presiding Officer, Labour Court, Hubli.

BEFORE THE LABOUR COURT, HUBLI.

Camp: Harihar

Reference (ID) LCH Claim No. 84 of 1968.

Presiding Officer: Sri D. Ponnurangam, B.A., B.L.

Date: 16th July 1969.

Claimant:—Sri Byarappa, S/o Eraiah, Conductor, J. Jareppa's House, in front of Old Shandy Market, Shimoga.

Vs.

Respondent:—The Management Deccan Roadways, Gandhi Bazar, Shimoga.

1. Under the provisions of Section 10(1)(c) of the Industrial Disputes Act, 1947 (which I may hereinafter refer to as the I.D. Act for the sake of convenience) the Government of Mysore, in its Order of reference No. FCL 674 LLD 68, dated 22nd November 1968 referred the dispute between the workmen and the management of Deccan Road Ways, Shimoga to this Court for adjudication, mentioning the following two points of dispute, namely:—

(1) Is the management of Deccan Roadways, Gandhi Bazar, Shimoga, justified in dismissing Shri Byrappa, Conductor, from service with effect from 12th February 1968?

If not, is he entitled to reinstatement with backwages and continuity of Service or to any other relief?

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(2) Is the workman Sri Byrappa, Conductor, entitled to Bonus for the year ending December, 1967 ?

4. The facts of the case, in brief, are as follows :—

The claimant in this case is one Byrappa. He is stated to be a lorry conductor His services were terminated by the management of Deccan Road Ways, Shimoga under its memo dated 12th February 1968 on the ground that his work was not satisfactory and against the rules. According to the claimant worker, the order of removal is illegal and malafide; that no proper enquiry was conducted; that the punishment given to him is unreasonable, excessive and discriminatory. Therefore, for the reasons mentioned in the statement of demands, he prays for reinstatement with back wages and continuity of service etc.

5. The management filed its rejoinder refuting the allegations of this workman, which he has stated in the statement of demands. It is mentioned in the rejoinder that on 18th January 1968 when the loaded lorry, which was in charge of this concerned worker was suddenly checked by the managing partner of the firm at Tumkur on the way to Shimoga. It was found that 3 unauthorised passengers and 11 baskets of tomatoes were loaded in the lorry though not booked. As the inspection started the cleaner bolted away and the lorry had to be sent in charge of another Conductor. An enquiry was made after receiving the show cause notice, the claimant admitted that the passengers and tomatoes were put un-authorisedly on the lorry but tried to throw the blame on one Sri Vishweshwariah, who was permitted to travel on that day. In the domestic enquiry, in which that Vishweshwariah was also examined and after taking into consideration all the materials placed in the domestic enquiry, the management found this conductor guilty and dismissed him from service. Therefore the present dispute.

6. The concerned worker Byrappa is not represented by anybody. The management is represented by Sri G S N. Iyengar, Personal Assistant of the respondent management. At the hearing which I have fixed at Haribar on 15th July 1969, the concerned worker Byrappa examined himself. Ex. W-1 to W-3 and Ex M-1 to M-5 were marked through him and his oral evidence was closed. Sri G. S. N. Iyengar submitted that the respondent has no oral evidence to adduce and that the management relies only upon the documents. He filed the domestic

enquiry papers. I have heard the arguments on behalf of both the sides and perused the records of the case.

5. From the enquiry papers and the evidence adduced on record, I am satisfied that a show cause notice was given to this concerned worker, to which he has given two replies, one in Kannada and one in English. A careful perusal of the replies shows that at the earliest stage he has admitted the insinuations levelled against him by the management. In the domestic enquiry also he has not disputed the charges levelled against him. From the enquiry papers, I am satisfied that this worker was given a fair and reasonable opportunity to cross-examine the witnesses. He admits that he was present and that he was given an opportunity. So, I think the management is justified in giving a finding of guilt against this conductor. There is also material to show that the other driver Krishnappa, who was in the lorry was also dismissed though later re-employed. The complaint against Byrappa is unauthorised loading of passengers and consignments. It touches the loyalty and honesty of a workman to its employer. Loyalty and honesty are implied contract of service and it is expected therefore, that a workman should be loyal and honest to his master. Since in the present case those vital ingredients of service have been grossly violated, I think the management is justified in dismissing the concerned worker from service On a perusal of the records, I am satisfied that the management has taken all the facts and circumstances into consideration. Therefore, I pass the following award :

AWARD

6. The management of Deccan Road-ways, Shimoga is justified in dismissing Sri Byrappa, Conductor from service with effect from 12th February 1968. I hold that he is not entitled to reinstatement with back wages and continuity of service or to any other relief And I further, hold that as no evidence has been placed before me regarding the alleged right of bonus for the year ending December, 1967, that matter may be agitated by the concerned worker under section 33 C(2) of the I. D. Act. Since that matter pertains to benefit of a workman which can be computed in terms of money. In the result I reject the claims of the claimant. I make no order as to costs.

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7. Further, I direct the office of this Court to forward the true copies of this award to the Secretary to the Goverdment of Mysore, Food, Civil Supplies and Labour Department, the Mysore Government Secretariat, Vidhana Soudha, Bangalore as required under section 15 of the I. D. Act.

8. Dictated to the Stenographer, transcribed and typed by him and then pronounced by me in open Court at Haribar this 16th day of July, 1969.

16-7-1969
Camp: Haribar

D. PONNURANGAM,
Presiding Officer,
Labour Court Hubli.